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11			
12	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA		
13	SAN JOSE		
14			
15	FEDERAL TRADE COMMISSION,	Case No. C09-03814 -RS	
16	Plaintiff,	SECOND STIPULATION AND	
17	v.	[PROPOSED] ORDER TO SUSPEND AND REVISE	
18	SWISH MARKETING, INC., a corporation,	DISCOVERY SCHEDULE	
19	MARK BENNING, individually and as an officer of SWISH MARKETING, INC.,		
20	MATTHEW PATTERSON, individually and		
21	as an officer of SWISH MARKETING, INC., and		
2223	JASON STROBER, individually and as an		
24	officer of SWISH MARKETING, INC.,		
25	Defendants.		
26	Pursuant to Local Rule 6-2, the parties, b	y and through their respective attorneys, hereby	
27	stipulate to and respectfully request this Court suspend and revise the discovery schedule in this		
28	case so that the FTC may consider proposed settlements with the remaining individual		
	2 nd STIPULATION TO EXTEND DISCOVE	RY SCHEDULE - C09 3814 RS	

defendants.

- 1. On November 19, 2010, the parties participated in a settlement conference with Magistrate Judge Spero.
- 2. During that settlement conference and over the past several weeks, the parties have made great progress towards resolving this matter as it relates to the remaining individual defendants, Mark Benning and Matthew Patterson. As a result of those talks, defendants Benning and
- Patterson have signed stipulated final judgments that would resolve this case as to them. Those settlements have not been formally approved by the Commission. If approved, the parties anticipate that they will seek only limited additional fact discovery, if any.
 - 3. At this time, the FTC and defendant Swish Marketing, Inc., do not expect to reach a settlement in this matter. The FTC plans to file a motion for summary judgment as to defendant Swish Marketing, Inc.
 - 4. The parties hereby request the Court suspend temporarily discovery in this matter so that the Commission may review the proposed settlements with defendants Benning and Patterson.
 - 5. Thus, the parties request that the Court modify the discovery schedule in accordance with the table below.

Matter	Current Date	Proposed Date
Non-Expert Discovery Resumes	N/A	2/28/2011
Non-Expert Discovery Cut-Off	1/28/2011	4/14/2011
FTC's Designation of Expert Testimony and Reports	2/7/2011	4/25/2011
Defendants' Designation of Expert Testimony and Reports	3/7/2011	5/23/2011
Expert Discovery Cut-Off	5/4/2011	7/19/2011

6. This motion is the second request for an extension of time relating to the discovery schedule.

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1	IT IS SO STIPULATED.	
2		Respectfully submitted,
3	DATED: January 11, 2011	/s/ Lisa D. Rosenthal LISA D. ROSENTHAL
5		KERRY O'BRIEN EVAN ROSE ERIC D. EDMONDSON
6		Attorneys for Plaintiff
7		FEDERAL TRADE COMMISSION
8	(The filer attests that concurrence in the filing of this document has been obtained from	
9	each of the other signatories.)	
10		
1112	DATED: January 11, 2011	/s/ Brian Grossman BRIAN GROSSMAN TESSER & RUTTENBERG
13		Attorneys for Defendants
14		SWISH MARKETING, INC., MATTHEW PATTERSON, and JASON STROBER
15		JASON STRODER
16	DATED: January 11, 2011	/s/ Jay Fowler DANIEL J. BERGESON
17 18		JAY FOWLER ELIZABETH D. LEAR BERGESON, LLP
19		Attorneys for Defendant
20		MARK BENNING
21		
22	PURSUANT TO STIPULATIO	N IT IS SO ODDEDED.
23	TURSUANT TO STIFULATIO	N, II IS SO ORDERED.
24		21181
25	DATED: 1/12/11	RICHARD SEEBORG
26		UNITED STATES DISTRICT JUDGE
27		
28		